under 35 U.S.C. §103 over U.S. Patent No. 4,965,583 to Broxmeyer in view of U.S. Patent No. 6,378,772. Applicant respectfully traverses this rejection, and courteously asks for its reconsideration.

Applicant first points out that one of ordinary skill in the art would not have been led to combine the teachings of the Boxmeyer and Yonemura patents in the manner suggested by the Examiner. In making this rejection, the Examiner noted:

> [I]t would have been obvious to one skill in the art at the time the invention was made to adapt the shield case of **Yonemura** for containing the magnet of **Broxmeyer** *in order to protect the magnet from foreign materials along the roadway, water, snow, dusts and/or rocks*, which causing to deteriorate the magnet and even to lose the magnet. *The shield case will not affect the magnet fundamental characteristics as to activate the switch of the inductance loop detector* within a proximity distance. (See Office Action, page 2, line 24 to page 3, line 6, *emphasis added.*)

Applicant respectfully invites the Examiner's attention to the portion of the Yonemura patent at column 5, line 57-63, which read:

> The position detecting sensor 21 is made from a conductive material such as aluminum, and has a *conductive* shield case 21*a with a bottom opening*, an excitation could 21*b* position on a top surface of the conductive shield case 21*a*, and two detection coils 21*c* provided at symmetrical positions inside the conductive shield case 21*a* in a longitudinal direction. (*Emphasis added.)*

Applicant respectfully points out that, with the disclosed *bottom opening*, a shield case 21*a* of the type described in the Yonemura patent would actually expose the magnet taught in the Broxmeyer patent to "foreign materials along the roadway, water snow, dusts and/or rocks."

Moreover, it is well known that conductive materials, such as those expressly taught for the shield case 21*a* in the Yonemure patent, actually block magnetic flux. Applicant therefore submits that using the case 21*a* taught in the Yonemura patent would, in fact, reduce the strength of or even block the magnetic flux generated by the Broxmeyer patent in areas facing the case 21*a*. Thus, use of the case 21*a* would probably decrease the ability of the magnet taught in the Broxmeyer patent to activate the presence detectors 10.

Second, even if the Broxmeyer and Yonemura patents were combined in the manner proposed by the Examiner, the combination still would not teach or suggest the features of the invention recited in the claims. For example, Applicant again points out that claim 1 recites a mount for mounting the magnet…to a vehicle. Neither the Broxmeyer patent nor the Yonemura patent teach or suggest this feature of the invention.

Claim 2 then recites that the casing includes a plurality of protrusions that provide a separation distance between the magnet and a vehicle on which the magnet is mounted. In rejecting this claim, the Examiner argued:

> …it would have been obvious to one skill in the art to recognize that the extending mechanism [taught in the Yonemura patent] provides the same function to extend the magnet without loosing or lacking the operation of the magnet and the vehicle detector system. (See Office Action, page 3, lines 12-14.)

The Examiner cannot reject the structure specifically recited in claim 2, however, simply because a prior art reference teaches a completely different structure for performing the same function. Many (if not most) patents are directed to new and novel structures for performing known functions. In order to sustain this rejection, the Examiner must show that the recited structure was obvious, not that the intended function of the structure was known..

Regarding claim 5, this claim recites that the casing includes at least a first element and a second element that cooperate to form an enclosure for receiving the magnet. In rejecting this claim, the Examiner has asserted that this feature is shown in Fig. 4B of the Yonemura patent. Applicant finds no basis for this assertion in the noted figure (or elsewhere the in Yonemura patent), however, and respectfully asks the Examiner to specifically identify the two separate elements that allegedly make up the casing 21*a*.

With regard to claim 6, this claim recites that the casing defines passages therethrough for receiving the mount. Again, the Examiner has vaguely asserted that this claimed feature is shown in Figs. 4A and 4B of the Yonemura patent, without referring to a particular structure in either of those figures that would support the Examiner's assertion. If the Examiner maintains this rejection of claim 6, Applicant courteously asks that Examiner to point out, with specificity, where the claimed feature is shown in either Fig. 4A or Fig. 4B.

Regarding claim 10, this claim recites moving a vehicle with the magnet within the casing proximal to an inductance loop of an inductance loop vehicle detector. Claims 20 and 30 similarly recite attaching a magnet positioned within a casing to a vehicle for purposes of activating inductance loop detectors proximal to the vehicle. The Examiner has suggested that these features of the invention are disclosed by the Broxmeyer patent. Applicant again respectfully points out, however, that the Broxmeyer patent does not even teach or suggest an inductance loop detector.

Instead, the Broxmeyer patent discloses a collision avoidance system that includes both loop antennas 9 and presence detectors 10. The loop antennas 9 are not used to detect anything. As disclosed at, e.g., column 10, lines 32-56, a loop antenna 9 is actually used to transmit signal to a vehicle passing overhead, to control the operation of the vehicle.

With regard to the presence detectors 10, the Broxmeyer patent states:

> The presence detectors are activated by the proximity of magnet 13 under the forward part of vehicle 5. When a vehicle-mounted magnet passes above a presences detector, the normally open presence detector switch closes. The switch reopens after the magnet has passed. The momentary switch closure allows a current to flow, generating a pulse marking the vehicle passage. (See column 10, lines 22-28.)

The Broxmeyer patent provides no further details as to the structure and operation of the presence detectors 10, but refers to, e.g., U.S. Patent No. 3,991,958 to Sibley et al., entitled "Magnetically Activated Registration Circuitry For A Vehicle Control System." This patent describes block occupancy sensors 23 that are formed "as bistable switches which are actuated from one stable state to another by the north or south pole of a magnet." (See, e.g., the Sibley et al. patent, column 11, lines 52-55). Thus, the Broxmeyer patent does not teach or suggest an inductance loop detector or even a structure resembling an inductance loop detector as recited in the claims. Applicant respectfully points out that the Yonemura patent likewise does not teach or suggest an inductance loop detector.

In summary, Applicant again respectfully submits that one of ordinary skill in the art would not have been led to combine the teachings of the Broxmeyer and Yonemura patents in the manner suggested by the Examiner. Further, no combination of the Broxmeyer and Yonemura patents would teach or suggest the features of the invention recited in any of claims 1-8, 10-18, 20-28, and 30-38. Applicant therefore asks that the rejection of these claims be withdrawn.

Claims 9, 19, 29 and 39 then were rejected under 35 U.S.C. §103 over the Broxmeyer and

Yonemura patents, in further view of U.S. Patent No. 4,531,560 to Balanky. Applicant respectfully traverses this rejection, and asks for its reconsideration as well.

The Balanky patent, being directed to a cover for vehicles, is completely unrelated to both the Broxmeyer and the Yonemura patents. Again, there is simply no overlap between the purposes or uses of the devices taught in the Balanky, Broxmeyer and Yonemura patents. Applicant therefore submits that one of ordinary skill in the art would not have been led to combine the Balanky, Broxmeyer and Yonemura patents in the manner proposed by the Examiner. Moreover, the Balanky patent does not remedy the omissions of the Broxmeyer and Yonemura patents discussed in detail above. No combination of the Balanky, Broxmeyer and Yonemura patents could thus teach or suggest the features of the invention recited in any of claims 9, 19, 29 and 39.

In summary, one of ordinary skill in the art would not have been led to make the combinations of the Balanky, Broxmeyer and Yonemura patents asserted by the Examiner in rejecting claims 9, 19, 29 and 39. Further, no combination of the Balanky, Broxmeyer and Shepherd et al. patents could teach or suggest the features of the invention recited in any of claims 9, 19, 29 and 39. Applicant therefore asks that the rejection of each of these claims be withdrawn.

It is believed that no additional fees are required for the consideration and entry of the Request For Reconsideration. If the Commissioner deems that additional fees are required for consideration and entry of this Request, however, or to otherwise maintain the pendency of this application, including any fees under 37 C.F.R. §1.16 or §1.17, the Commissioner is authorized to charge such fees to Deposit Account No. 19-0733

In view of the above remarks, Applicant respectfully submits that all of the claims are allowable, and that this application therefore is in condition for allowance. Favorable action in this regard is courteously requested at the Examiner's earliest convenience.

Respectfully submitted,

By: Thomas L. Evans
Thomas L. Evans, Reg. No. 35,805

BANNER & WITCOFF, LTD.
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001-4597
Telephone: (202) 824-3000
Facsimile: (202) 824-3001

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